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10 *Attorneys for Plaintiff*  
11 ABBOTT LABORATORIES

12  
13 **UNITED STATES DISTRICT COURT**  
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 ABBOTT LABORATORIES,

16 Plaintiff,

17 v.  
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19 SCANTIBODIES LABORATORY, INC.,  
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21 Defendant.  
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Case No.: 08 CV 1525 H (BLM)

Related case:

Case No.: 07 CV 3428 (MFK)

Pending in the Northern District of Illinois

**DECLARATION RE PROOF OF SERVICE**

**DECLARATION OF STEPHEN R. SMEREK**

1  
2  
3 1. I am a partner with the law firm of Winston & Strawn LLP, counsel of record  
4 for Plaintiff, Abbott Laboratories. I make this declaration voluntarily, concerning matters  
5 within my personal knowledge.

6 1. Attached hereto is the original issued Summons and executed Proof of Service  
7 evidencing service of various documents on Defendant Scantibodies Laboratory. The  
8 documents were served on August 20, 2008, on Allan Garrett, Scantibodies' Agent for  
9 Service of Process, at 9343 Wheatlands Road, Santee, California 92071-2860. See Exhibit  
10 "A".

11 I declare under penalty of perjury under the laws of the United States of America that  
12 the foregoing is true and correct.

13 Executed this 29<sup>th</sup> day of August, 2008, at Los Angeles, California.

14  
15 /s/ Stephen R. Smerek  
16 Stephen R. Smerek  
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Winston & Strawn LLP  
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**CERTIFICATE OF SERVICE**

*Abbott Laboratories v. Scantibodies Laboratory, Inc.*

I, Stephen R. Smerek, an attorney at Winston & Strawn LLP, of the office located at 333 South Grand Avenue, 38th Floor, Los Angeles, CA 90071-1543, hereby certify under penalty of perjury that on August 29, 2008, that I caused to be served the following documents entitled:

**DECLARATION RE PROOF OF SERVICE**

Said documents were served as indicated below, upon all interested parties at the following addresses:



By Electronic Filing: The above and foregoing document(s) was electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following

Edward Patrick Swan, Jr. - [pswan@luce.com](mailto:pswan@luce.com)  
LUCE, FORWARD, HAMILTON &  
SCRIPPS LLP  
600 West Broadway, Suite 2600  
San Diego, CA 92101-3372

Anastasia Heffner - [aheffner@usebrinks.com](mailto:aheffner@usebrinks.com)  
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800 LaSalle Avenue  
Minneapolis, MN 55402

DATED: AUGUST 29, 2008

/s/Stephen R. Smerek  
Stephen R. Smerek

EXHIBIT "A"

Summons in a Civil Action (Rev 11/97)

ORIGINAL

# United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

*PLAINTIFFS*

ABBOTT LABORATORIES

VS

*DEFENDANTS*

SCANTIBODIES LABORATORY,  
INC.

## SUMMONS IN A CIVIL ACTION

Case No. 08 CV 1525 H BLM

TO: (Name and Address of Defendant)

SCANTIBODIES LABORATORY, INC.  
Attn: Allen Garrett, Registered Agent  
9336 Abraham Way  
Santee, CA 92071

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon PLAINTIFF'S ATTORNEY

Stephen R. Smerek  
WINSTON & STRAWN LLP  
333 South Grand Avenue, 38th Floor  
Los Angeles, CA 90071

George C. Lombardi, Raymond C. Perkins,  
Stephanie S. McCallum, Kevin E. Warner  
WINSTON & STRAWN LLP  
35 West Wacker Drive, Chicago, IL 60601

An answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

W. Samuel Hamrick, Jr.

CLERK

AUG 20 2008

DATE

By

, Deputy Clerk

Summons in a Civil Action

Page 1 of 2

<b>WINSTON &amp; STRAWN LLP</b> (213) 615-1700 <b>Stephen R. Smerek, Esq. (SBN 208343)</b> <b>333 South Grand Avenue, 38th Floor</b> <b>Los Angeles, California 90071-1543</b> ATTORNEY FOR (Name): <b>Plaintiff ABBOTT LABORATORIES</b>				
<b>UNITED STATES DISTRICT COURT</b> <b>SOUTHERN DISTRICT OF CALIFORNIA</b>				
PLAINTIFF: <b>NORA GARIBOTTI</b> DEFENDANT: <b>JAMES E. McCORMICK III, et al.</b>				
<b>PROOF OF SERVICE</b>	HEARING DATE:	TIME:	DEPT/DIV.:	CASE NUMBER: <b>08 CV 1525 H BLM</b>

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the (specify document(s):  
**SEE ATTACHED LIST**
  
2.
  - a. Party served: **Scantibodies Laboratory, Inc.**
  - b. Person served: **Allan Garrett, Agent for service of process**
  - c. Address: **9343 Wheatlands Road**  
**Santec, California 92071-2860**
  
3. I served the party in item 2
  - a. by personally delivering the copies (1) on (date): **08/20/08**  
(2) at (time): **01:41 p.m.**
  
4. Person serving (name, address, and telephone No.):  
  
**Craig Clemence**  
**Ace Messenger and Attorney Service, Inc.**  
**110 West C Street, Suite 805**  
**San Diego, California 92101**  
**(619) 235-8400**
  - a. Fee for service: \$
  - b. Registered California process server.  
 (1) Employee or independent contractor.  
 (2) Registration No.: **1424**  
 (3) County: **SAN DIEGO**
  
5. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **August 22, 2008**

  
(signature)

**ORIGINAL**

*ATTACHED LIST OF DOCUMENTS*

*UNITED STATES DISTRICT COURT*  
*SOUTHERN DISTRICT OF CALIFORNIA*

*ABBOTT LABORATORIES*

*v.*

*SCANTIBODIES LABORATORY, INC.*

*CASE NUMBER: 08 CV 1525 H BLM*

1. SUMMONS;
2. CIVIL CASE COVER SHEET;
3. ABBOTT LABORATORIES' NOTICE OF MOTION AND MOTION TO COMPEL COMPLIANCE WITH SUBPOENA ON THIRD PARTY SCANTIBODIES LABORATORY, INC., PURSUANT TO RULE 45(C)(2)(B); MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF KEVIN E. WARNER IN SUPPORT THEREOF;
4. [PROPOSED] ORDER GRANTNG ABBOTT LABORATORIES' MOTION TO COMPEL COMPLIANCE WITH SUBPOENA ON THIRD PARTY SCANTIBODIES LABORATORY, INC., PURSUANT TO RULE 45(C)(2)(B);;
5. ABBOTT LABORATORIES' CORPORATE DISCLOSURE STATEMENT ;